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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2010-67

13 **JOHN ERIC FREEMAN**
1252 Chelsea Way
14 Concord, CA 94521
Registered Nurse License No. 601295

ACCUSATION

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about July 2, 2002, the Board of Registered Nursing issued Registered Nurse
23 License Number 601295 to John Eric Freeman ("Respondent"). The Registered Nurse License
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 September 30, 2009, unless renewed.
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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

...

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. California Code of Regulations, title 16, section 1444, states:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health,

1 safety, or welfare. Such convictions or acts shall include but not be limited to the Contact of
2 minor with intent to commit sexual offense following:

3
4 " (d) Any conviction or act subject to an order of registration pursuant to Section 290 of the
5 Penal Code."

6 8. Penal Code section 288.3, entitled "Contact of minor with intent to commit sexual
7 offense; punishment," provides in relevant part that:

8 "(a) Every person who contacts or communicates with a minor, or attempts to contact or
9 communicate with a minor, who knows or reasonably should know that the person is a minor,
10 with intent to commit an offense specified in Section . . . 286 (sodomy), 288 (lewd or lascivious
11 acts), 288a (oral copulation), 288.2 (harmful matter sent with intent of seduction of minor) . . .
12 involving the minor shall be punished by imprisonment in the state prison for the term prescribed
13 for an attempt to commit the intended offense.

14 "(b) As used in this section, 'contacts or communicates with' shall include direct and
15 indirect contact or communication that may be achieved personally or by use of an agent or
16 agency, any print medium, any postal service, a common carrier or communication common
17 carrier, any electronic communications system, or any telecommunications, wire, computer, or
18 radio communications device or system."

19
20 9. Section 125.3 of the Code provides, in pertinent part, that the Board/
21 Registrar/Director may request the administrative law judge to direct a licentiate found to have
22 committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable
23 costs of the investigation and enforcement of the case.

24 CAUSE FOR DISCIPLINE

25 (CRIMINAL CONVICTION)

26 10. Respondent is subject to disciplinary action under Code sections 2761(a), 2761(f)
27 and/or 490 in that on or about October 2, 2008, in a criminal proceeding entitled *The People of*
28 *the State of California v. John Eric Freeman* in Superior Court of the State of California, County

1 of Contra Costa, Case Number 01-132703-0, Respondent was convicted by his plea of no
2 contest to a violation of Penal Code section 288.3(b) (contact of minor with intent to commit
3 sexual offense). Respondent was sentenced to 90 days on electronic home detention and placed
4 on probation for three years from the date of his plea. Respondent was further required to
5 register as a sex offender pursuant to Penal Code section 290. The circumstances surrounding
6 the conviction are that on July 9, 2007 through July 31, 2007, Respondent engaged in electronic
7 communications with an undercover detective who was posing as a thirteen year old female
8 ("minor") on an internet chat room. During the three weeks of chat room communications,
9 Respondent repeatedly confirmed his understanding of the minor's age. He nonetheless engaged
10 in explicit sexual communications, detailing the sexual acts that he wanted to perform on the
11 minor and/or have the minor perform on him. On July 31, 2007, Respondent went to a
12 fictitious address (provided by the undercover detective), planning to meet the minor and engage
13 in the previously discussed sexual relations. Respondent was arrested at the scene by the Contra
14 Costa Sheriff's Department.

15 PRAYER

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Board of Registered Nursing issue a decision:

18 1. Revoking or suspending Registered Nurse License Number 601295, issued to John
19 Eric Freeman.

20 2. Ordering John Eric Freeman to pay the Board of Registered Nursing the reasonable
21 costs of the investigation and enforcement of this case, pursuant to Business and Professions
22 Code section 125.3;

23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: 8/6/09

25 *Louise R. Bailey*
26 LOUISE R. BAILEY, M.Ed., RN
27 Interim Executive Officer
28 Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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